

REMARKS

This is a full and timely response to the final Office Action mailed June 14, 2005. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

35 USC § 112 Rejections

Under 35 USC 112, the Examiner states that the words "such that" in claims 1, 9 and 15 are indefinite. The applicant respectfully submits that Examiner has not provided an analysis as to why the phrase is indefinite as required in MPEP 2173.03:

"If upon review of a claim in its entirety, the examiner concludes that a rejection under 35 U.S.C. 112, ... such a rejection should be made and an analysis as to why the phrase(s) used in the claim is "vague and indefinite"

be included in the Office action.

Claim 9 has been amended to provide antecedent basis.

35 USC § 103 Rejections

The Examiner rejects claims 1, 3, 5, 8, 15, 17 and 18, as being unpatentable over Duong US Patent 6628884 B2. Applicant respectfully traverses the rejection.

The requirements for a *prima facie* case of obviousness are set forth in MPEP § 2143 as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not on applicants' disclosure.

The Examiner states that:

It is obvious to one with ordinary skill in the art to modify Duong's system by including a capability of transmitting and/or modulating of speckle light in order to provide a wider application and/or more usable of the system.

The applicants respectfully submit that the Examiner has not provided any evidence that one of ordinary skill in the art at the time of the instant invention would have been motivated by Duong to make the appropriate modification with respect to claims 1 and 15 and hence has failed to make a prima facie case of obviousness. As claims 3, 5 and 8 and claims 17 and 18 depend from claims 1 and 15, respectively, claims 3, 5 and 8 and claims 17 and 18 are allowable for at least the same reasons that claims 1 and 15 are allowable.

In the event the Examiner has personal knowledge of the skill in the art at the time of the instant invention, the Examiner is invited to submit this knowledge in an affidavit.

For claims 2 and 16, the Examiner states:

Duong discloses an optional relationship between the end surface of the light pipe and the imaging plane but fails to teach said first face is inclined at an angle with respect to said second face. Selecting a specific arrangement of the optics elements in an optional system in order to provide a desired signal modulation would have been obvious to one of ordinary skill in the art.

As claim 2 and claim 16 depend from claims 1 and 15, respectively, claims 2 and 16 are allowable for at least the same reasons that claims 1 and 15 are allowable.

On claims 4 and 20, the Examiner states:

Duong fails to teach said first pair of sidewalls being optically absorptive. Although Duong lacks a clear teaching of said first pair of sidewalls being optically absorptive, the inclusion of optically absorptive sidewalls/elements for absorbing unwanted light would have been obvious to one of ordinary skill in the optics art. It would have been obvious... at the time of invention to modify proposed system of Duong accordingly in order to prevent unwanted reflections of light from reaching said photodetector array.

The applicants respectfully submit that the above-quoted portion of the office action does not indicate where in the cited references may be found a teaching or suggestion that would provide the person of ordinary skill in the art with a reasonable expectation of success

were such person to attempt to use the references so that the first pair of sidewalls are optically absorptive. The applicants respectfully submit that it is not obvious to one skilled in the art that absorptive sidewalls be used in a lightpipe when the purpose of a lightpipe is to efficiently transport light.

For claims 6 and 19, the Examiner states:

The inclusion of a diffraction grating would have been obvious for similar reasons as set forth in the discussion of claim 2 above.

As claims 6 and 19 depend from claims 1 and 15, respectively, claims 6 and 19 are allowable for at least the same reasons that claim 1 and 15 are allowable.

With respect to claim 7, the Examiner writes:

Dong fails to teach said lightpipe is comprised of SiO₂. Although Duong lacks a clear inclusion of SiO₂, selecting a known and available material for making an optical element/component would have been obvious to one of ordinary skill in order to provide a desired performance of the lightpipe. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify proposed Duong's system accordingly in order to provide a better light conducting performance of the system.

As claim 7 depends from claim 1, claim 7 is allowable for at least the same reasons that claim 1 is allowable.

For claims 9, 10, 13 and 14, the Examiner writes:

Duong fails to teach said photodetector array is centered on a first focal line of said second pair of sidewalls(elliptical). Although Duong fails to include a specific related arrangement between said photodetector array and said lightpipe(elliptical reflector), selecting a particular position and/or arrangement of elements/components of the system in order to provide an easier alignment of the optic elements/components would have been obvious.... It would have been obvious... at the time of the invention to modify proposed Duong's system accordingly in order to provide a more compact design of the system.

As stated earlier, the prima facie case of obviousness set forth in MPEP 2143 states that there must be some suggestion or motivation, either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. The applicants respectfully submit that the Examiner has not provided any evidence that one of ordinary skill in the art at the time of the instant invention would have been motivated by Duong to make the appropriate modification with respect to claim 9, and hence has failed to make a prima facie case of obviousness. As claims 10, 13, and 14 depend from claim 9, claims 10, 13, and 14 are allowable for at least the same reasons that claim 9 is allowable.

In the event the Examiner has personal knowledge of the skill in the art at the time of the instant invention, the Examiner is invited to submit this knowledge in an affidavit.

With respect to claim 11, the Examiner states:

Regarding to the further citation of black wax, it would have been obvious for similar reasons set forth in the discussion of claim 4 above.

As claim 11 depends from claim 9, claim 11 is allowable for at least the same reasons that claim 9 is allowable.

On claim 12, the Examiner states:

The inclusion of a diffraction grating on the second focal line would have been obvious for similar reasons set forth in the discussion of claim 6 above.

As claim 12 depends from claim 9, claim 12 is allowable for at least the same reasons that claim 9 is allowable.

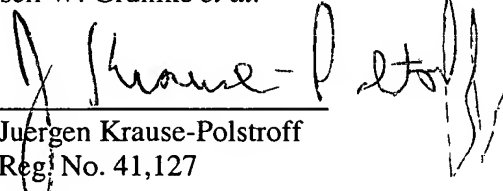
Hence, claims 1-20 are allowable and allowance is respectfully requested.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned representative at (650)-485-5904.

Respectfully submitted,

Russell W. Gruhlke *et al.*

By


Juergen Krause-Polstroff
Reg. No. 41,127

Agilent Technologies, Inc.
Legal Department, MS DL429
P.O. Box 7599
Loveland CO 80537-0599

DATE: September 14, 2005

Telephone: 650-485-5904